

**HOUSE BILL ANALYSIS
ESSB 5089**

Title: An act relating to failure to appear at a court proceeding.

Brief Description: Requiring previous bail jumpers to post bail.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Zarelli, Swecker, and Hochstatter).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Hearing Date: February 20, 1998.

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Background: The Washington Constitution provides that any person charged with a crime shall be released on bail with sufficient sureties, except for capital offenses. Washington court rules also provide that any person charged with a crime other than a capital offense must be released on the person's personal recognizance pending trial unless the court determines that the accused will not appear when required, or there is a likely danger that the accused will commit a violent crime, seek to intimidate witnesses, or otherwise interfere with the administration of justice. "Violent crimes" embraces more crimes than those characterized as "violent" crimes under the Sentencing Reform Act and may include misdemeanors. The court may impose conditions of release or require the accused to post bail. The court must impose the least restrictive conditions so that the person is not held in pretrial detention in violation of the constitution.

When a person is convicted of a crime and pending sentencing or appeal following sentencing, the court makes similar decisions about releasing the offender, however, there is not a constitutional right to be released following convicted pending sentencing or appeal. The Legislature has passed a number of statutes restricting the courts' authority to release offenders following conviction. Some of those provisions were passed in 1996.

Under principles of separation of powers, Washington courts have held that the decision regarding the release of an accused or convicted offender is a matter of the administration of justice, and thus falls within the purview of the judiciary and not the Legislature. However, the court has given some deference to the statutes governing the release of convicted offenders.**Summary:** The court may not release a person on personal recognizance if the person has been convicted of a crime and the person has failed to appear as directed by a court on two or more prior occasions. **Rules Authority:** No.

Fiscal Note: Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.